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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,693	02/08/2002	Andreas Dieterle	DT-6067	2085

30377 7590 08/28/2003

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EXAMINER

LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
3721	

DATE MAILED: 08/28/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

PR

Offic Action Summary	Application No.	Applicant(s)	
	10/071,693	DIETERLE ET AL.	
	Examiner	Art Unit	
	Michelle Lopez	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 February 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) 3,5 and 8-10 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 2, 4, 6, and 7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

<ol style="list-style-type: none"> 1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 	<ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____.
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DETAILED ACTION

1. Applicant's election without traverse of claims 1, 2, 4, 6, and 7 recited on Species V in Paper No. 9 is acknowledged.
2. Claims 3, 5, 8-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been received.

Claim Objections

4. Claims 6-7 are objected to because of the following informalities: In claim 6, line 3; it should be counter thoothing (46) instead of counter thoothing (40). Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 4, and 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, it is not clear what feature is claimed by "said means".

Also in claim 7, it is not clear what is meant by “fixed against means forming a spring force”. It is no clear what is deemed by “means”. Are the “means” part of the invention claimed?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerold'708 in view of Driggers'742. Gerold discloses the invention substantially as claimed including a housing at the vicinity of “4” (see Fig. 1), a guide part “2”, a drive shaft “9”, an auxiliary handle “4” projecting laterally outwardly from the housing, a locking ring arranged to set the handle on the guide part (see Fig. 1). Gerold does not disclose a spade-shaped auxiliary handle. However, Driggers'742 teaches a spade-shaped auxiliary handle “30” for the purpose of providing a handle with a convenient grip area that allows the user to easily guide the motion of the tool. In view of Driggers, it would have been obvious to one having ordinary skill in the art to have modified Gerold's invention as modified by Driggers by having a spade-shaped auxiliary handle in order to provide a handle with a convenient grip area that allows the user to easily hold the motion of the tool, thereby guiding the electrical tool with precision.

Also, Gerold does not disclose a locking ring that can be pivotally displaced around a rotational axis related to the drive shaft having securing means. However, Driggers teaches a locking ring “42” with securing means that can be pivotally displaced around a rotational axis

related to the drive shaft (see col. 5, lines 8-19 and 46-59) for the purpose of pivotally displacing or adjusting the locking ring. In view of Driggers, it would have been obvious to one having ordinary skill in the art to have modified Gerold's invention as modified by Driggers by having a locking ring "42" with securing means that can be pivotally displaced around a rotational axis related to the drive shaft (see col. 5, lines 8-19 and 46-59) in order to pivotally displace or adjust the locking ring, thereby providing a plurality of different positions for the auxiliary handle.

7. Claims 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerold'708 as applied to claim 1 above, and further in view of Lepold'594. Gerold as modified by Driggers substantially discloses the invention. Gerold as modified by Driggers does not disclose an actuator element. However, Lepold teaches an actuator (not shown numerically) secured to the locking ring or adjusting guide means via "40" (see col.2, lines 34-50) for the purpose of variably displacing the locking ring. In view of Lepold, it would have been obvious to one having ordinary skills in the art to have provided Gerold's inventions as modified by Driggers and further as modified by Leopold by having an actuator integrated mounted on the auxiliary handle, thereby on the locking ring in order to variably displace the auxiliary handle to different positions without a complete detachment of the handle unit from the housing, thereby the handle unit always remains in connection with the housing.

Regarding claim 4, Lepold does not specifically state that actuator is mounted for pivotal movement in the direction of the drive shaft. However, it would have been obvious to one having ordinary skill in the art to have provided an actuator mounted for pivotal movement in the direction of the drive shaft as a matter of design choice. Furthermore, as can be seen in Fig.1 of

Gerold and in Figs. 2 and 3 of Driggers, an auxiliary handle is mounted for pivotal movement in the direction of a drive shaft. Therefore, it would have been obvious to one having ordinary skill in the art to have provided Gerold's and Driggers' inventions as modified by Lepold by having an actuator mounted for pivotal movement in the direction of the drive shaft, as described above in paragraph 7, since the actuator is integrated mounted on the auxiliary handle.

Regarding claims 6 and 7, Gerold as modified by Driggers does not disclose a first plate fixed to the auxiliary handle having counter toothing and a second plate having toothing and fixed against a spring. However, Lepold teaches a first plate "80" fixed to the auxiliary handle having counter toothing "96" and a second plate "60" having toothing and fixed against a spring (see Fig. 7) for the purpose of engaging in a fitting manner the first plate with the second plate via the toothings. In view of Lepold, it would have been obvious to one having ordinary skill in the art to have provided Gerold's inventions as modified by Driggers and further as modified by Lepold by having a first plate "80" fixed to the auxiliary handle having counter toothing "96" and a second plate "60" having toothing (see Fig. 7) in order to engage in a fitting manner the first plate with the second plate via the toothings, thereby providing a securing feature allowing to lock and unlock the auxiliary handle to the locking ring.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen'090, Driggers'548, Gantner'870, Neubert'483, and Gustafsson'831 are cited to show related inventions.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 703-305-8205. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ML



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700